

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

EMPOWER RETIREMENT, LLC,

Plaintiff,

v.

JOSEPH R. DIAZ,

Defendant.

No. 2:22-cv-0489-KJM-CKD

ORDER VACATING HEARING;
ORDER TO RESPOND; AND ORDER TO
SEAL

(ECF Nos. 13, 14)

Presently pending before the court are plaintiff's motion for default judgment, which is currently set for hearing on September 7, 2022 (ECF No. 13) and plaintiff's accompanying notice of request to file under seal (ECF No. 14) one of the supporting exhibits which was filed on the docket in redacted form.

Pursuant to Local Rule 230(c), defendant was required to file an opposition or statement of non-opposition to the motion for default judgment no later than fourteen (14) days after the motion's filing, i.e., by August 15, 2022. Although that deadline has passed, no opposition or statement of non-opposition was filed. Out of an abundance of caution, and in light of the court's desire to resolve the action on the merits if possible, the court provides defendant one additional, final opportunity to oppose the motion under the deadlines set forth below.

Attached to plaintiff's motion for default judgment are numerous exhibits, several of which were filed with partial redactions of financial account numbers as required by Federal Rule

1 of Civil Procedure 5.2(a) and Local Rule 140(a). (ECF No. 13.2 at 6-20.) One of these exhibits,
2 Exhibit B, was filed with both (i) these limited account number redactions as well as
3 (ii) additional non-required redactions to protect from public view the name of the financial
4 institution through which a nonparty received certain funds and the amount of funds received.
5 (ECF No. 13.2 at 9.) Plaintiff shows “compelling reasons” for protecting this information from
6 public view through use of narrowly tailored redactions on this single-page containing an image
7 of the face of a check. See Kamakana v. City & Cty. of Honolulu, 447 F.3d 1172, 1178 (9th Cir.
8 2006) (standard for sealing record attached to dispositive motion). Accordingly, plaintiff’s
9 request to seal is GRANTED. The version of Exhibit B containing fewer redactions (that is, only
10 the Rule 5.2(a)-required redactions of financial account numbers) shall be filed under seal, along
11 with plaintiff’s request to seal.

12 Accordingly, IT IS HEREBY ORDERED that:

- 13 1. The September 7, 2022 hearing on plaintiff’s motion for default judgment is
14 VACATED. The court takes this matter under submission on the papers without oral
15 argument, pursuant to Local Rule 230(g). The court will reschedule a hearing at a
16 future date, if necessary;
- 17 2. Defendant’s opposition shall be filed no later than September 2, 2022, and the reply
18 brief from plaintiff, if any, is due on or before September 9, 2022;
- 19 3. Defendant is cautioned that failure to respond to the motion in compliance with this
20 order will be deemed as consent to a summary grant of the motion, and may result in
21 the imposition of a default judgment against a non-responding defendant;
- 22 4. Plaintiff shall promptly serve a copy of this order on defendant at his last-known
23 address, and file a proof of service; and
- 24 5. Plaintiff’s request to seal (ECF No. 14) is GRANTED. The Clerk of Court shall file
25 under seal the less redacted version of page 9 of ECF No. 13.2, (Exhibit B to the
26 Declaration of Natasha Fedder in support of Plaintiff’s Motion for Default Judgment),
27 along with plaintiff’s request to seal. Only the parties, their representative counsel,

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1 and the court and its personnel shall be permitted to access the sealed version of
2 Exhibit B, which shall remain under seal so long as the public has access to the court's
3 electronic docket.

4 Dated: August 19, 2022


CAROLYN K. DELANEY
UNITED STATES MAGISTRATE JUDGE

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